

BUREAU OF AUTOMOTIVE REPAIR

SPECIFIC LANGUAGE OF PROPOSED REGULATIONS

**REVISION AND CLEANUP OF SMOG CHECK STATION REGULATIONS:
REQUIREMENT FOR TELEPHONE LINE; TESTING OF TEST-ONLY DIRECTED
VEHICLES AT TEST-AND-REPAIR STATIONS**

Legend: Deleted text is indicated by ~~striketrough~~.
Added text is indicated by underlining.

1. Section 3340.1 of Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations is amended to read as follows:

§3340.1. Definitions.

In this article, unless the context otherwise requires:

(a) "Heavy duty vehicle" means a vehicle with a manufacturer's gross vehicle weight rating of 8501 pounds or more.

(b) "Implementation area" means a geographical area, in which a local district has requested implementation of a biennial inspection program pursuant to section 44003 of the Health and Safety Code.

(c) "Smog check station" or "~~licensed~~-station," means a smog check test-only station or smog check test-and-repair station licensed by the bureau in the smog check program.

(d) "Smog check test-only station" or "test-only station" means a smog check station licensed by the bureau to test and inspect vehicles in the smog check program.

(e) "Smog check test-and-repair station" or "test-and-repair station" means a smog check station licensed by the bureau to test, inspect, diagnose and repair vehicles in the smog check program.

(f) "Smog check technician" or "~~licensed~~-technician" means an individual who holds one of the technician licenses specified in section 3340.28 of this article.

(g) "~~Test analyzer system (TAS)~~" or "eEmissions inspection system" or "EIS" (~~EIS~~)" means a tamper-resistant instrument which meets the requirements of subdivision (b) of section 44036 of the Health and Safety Code and which is certified by the bureau for use in the California Smog Check program.

(h) "Bureau" or "BAR" means the Bureau of Automotive Repair.

(i) "Smog check program" or "program" means the motor vehicle inspection program conducted pursuant to section 44005 of the Health and Safety Code, and as hereby described in this article.

(j) "ARD-exempt heavy-duty station" means a smog check test-and-repair station or a smog check test-only station that only tests and/or repairs commercial vehicles which have a gross vehicle weight rating of 10,000 pounds or greater.

(k) "Enhanced area" or "Enhanced vehicle inspection and maintenance program area" means the smog check program conducted in any part of an urbanized area of the state which is classified by the Environmental Protection Agency as a serious, severe or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm.

(l) "Basic area" or "Basic vehicle inspection and maintenance program area" means the smog check program conducted in any area of the state which is not classified as an enhanced vehicle inspection and maintenance program area.

(m) "Gaseous fuel" means fuel composed of propane, liquefied or compressed natural gas.

(n) "Supervising technician" means the licensed technician that performs the after repairs test of a vehicle that has failed an inspection at a smog check station.

(o) "After repairs test" means a test performed on a vehicle after repairs have been made to that vehicle as a result of failing an inspection at a smog check station.

(p) "Test-only facility" means a facility contracted by the bureau to test and inspect vehicles.

(q) "Gold Shield station" means a registered Automotive Repair Dealer who is also a ~~licensed smog check~~ test-and-repair station which has been certified by the department and meets all the requirements specified in Article 10, of these regulations.

(r) "Comparative Failure Rate" or "CFR"-~~(CFR)~~" means that the station's failure rate, under the Gold Shield Program, must be comparable to the ~~Test-Only~~ station failure rate for all non-directed vehicles of the same model-year. The station's failure rate, using initial tests, by model-year, of non-directed vehicles is applied to an industry-wide failure rate for ~~Test-Only~~ stations, calculated quarterly by smog check program area, using

initial tests, by model-year, of non-directed vehicles inspected, and includes an allowable deviation to compensate for the random distribution of passing and failing vehicles based upon a 95 percent confidence level.

(s) “Non-directed vehicle” means a vehicle that was not required to be inspected at a ~~Test-Only~~ station pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code.

(t) “Clean piping,” for the purposes of Health and Safety Code section 44072.10(c)(1), means the use of a sample of the exhaust emissions of one vehicle in order to cause the ~~TAS or~~ EIS to issue a certificate of compliance for another vehicle.

(u) “Initial test” means the first Smog Check inspection of a vehicle done in official test mode or pre-test mode and performed within one hundred eighty (180) days prior to a registration renewal date or a change of ownership date for that vehicle. An initial test does not include tests that are aborted before completion or tests done in the training or manual modes of the ~~TAS or~~ EIS.

(v) “Vehicle Information Database or “VID” ~~(VID)~~” means a centralized computer database and computer network, which is readily accessible by all licensed smog check technicians on a real time basis.

(w) “Repair Assistance” means a component of the Consumer Assistance Program (CAP) that provides financial assistance for emissions-related repairs to help eligible motor vehicle owners bring their vehicles into compliance with the requirements of the Smog Check Program.

(x) “Household” means a family of persons or any group of two or more unrelated persons that reside together and share common living expenses.

(y) “Vehicle Retirement” means a component of the Consumer Assistance Program (CAP) that provides payments to eligible motor vehicle owners who choose to voluntarily retire their vehicles from operation rather than make emissions-related repairs to bring the vehicles into compliance with the requirements of the Smog Check Program.

(z) “Dismantler” means an automobile dismantler, as defined in Section 220 of the Vehicle Code and licensed pursuant to Section 11500 of the Vehicle Code, who has contracted with the Bureau to retire vehicles from operation.

(aa) “Revivable Junk Receipt” means a receipt showing proof that the vehicle is recorded and titled as “junked” by the Department of Motor Vehicles.

(bb) “Vehicle Inspection Report” or “VIR” ~~“(VIR)”~~ means an official smog check inspection report that is printed from ~~a test analyzer or~~ an emissions inspection system and given to the registered vehicle owner(s) or their legal representative.

(cc) “Consumer Assistance Program” or “CAP” ~~“(CAP)”~~ means a program of the Bureau of Automotive Repair that provides eligible motor vehicle owners the options of Repair Assistance and Vehicle Retirement.

NOTE: Authority cited: Sections 44001.5, 44002, 44072.10, 44091 and 44095, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44014.5, 44017, 44017.1, 44030, 44036, 44037.1, 44056, 44062.1, 44070, 44072.10, 44092, 44093, 44094 and 44103, Health and Safety Code; Sections 220 and 11500, Vehicle Code; and Section 11505, Government Code.

2. Section 3340.16 of Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations is amended to read as follows:

§3340.16. Test-Only Station Requirements.

(a) ~~Basic Area.~~ A smog check test-only station operating in other than an enhanced program area shall have all testing equipment and emission application and reference manuals necessary to test and/or inspect all affected vehicles, including the following:

(1) ~~Test analyzer system or~~ An emissions inspection system, in accordance with the bureau's ~~test analyzer~~ BAR-97 Emissions Inspection sSystem sSpecifications ~~referenced as provided in subsection (a) of section 3340.17(a)~~ of this article.

(2) An Ignition timing light, which measures ignition advance.

(3) A ~~H~~hand vacuum pump and a vacuum gauge.

(4) Basic hand tools necessary to inspect vehicle ignition, fuel delivery, and emission control systems.

(5) A device capable of retrieving trouble codes from vehicles with on-board computers, along with instructions on how to extract codes, and definitions of codes found.

(6) A ~~F~~fuel fillpipe restrictor dowel gauge meeting the following specifications:

(A) Made of a non-sparking material meeting the standard for hardness of aluminum alloy No. 5052 as defined in Volume 02.02 of section 2 of the 1986 Annual Book of Standards published by the American Society for Testing and Materials;

(B) Having a radiused test portion;

(C) Having a test portion diameter not less than 0.9375 inches ~~nor~~ or more than 0.950 inches;

(D) Having an overall length not less than 5 inches ~~nor~~ or more than 12 inches;

(E) Having a handle no less than 1.25 inches in diameter, and no less than 4 inches in length; and

(F) Constructed of solid bar stock or tubing with a minimum wall thickness of 3/16 of an inch.

(7) The most currently available emission control system application information as contained in any of the nationally distributed and periodically updated manuals that address emission control systems applications; vacuum routing diagrams for all vehicles being tested; electronic component location manuals; and specifications for those functional tests currently prescribed by the bureau.

(8) The most currently available bureau manuals and bulletins.

(9) An evaporative emission control inspection system that meets subsections (a) through (h) and (j) of section 2.8 of the emissions inspection system specifications referenced in subsection (b) of section 3340.17(b) of this Article.

(b) ~~Enhanced Area.~~ A smog check test-only station operating in an enhanced program area shall have all of the equipment and materials specified by and conform to the requirements of subsection (a) above, except for ~~subsections paragraphs (a)(1) and (a)(5),~~ and an emissions inspection system in accordance with the bureau's BAR-97 Emissions Inspection System Specifications ~~referenced as provided in subsection (b) of section 3340.17(b) of this article.~~ A smog check test-only station operating in an enhanced area shall have a tire pressure gauge capable of accurately measuring tire pressure at the specification for the vehicles being tested and inspected using the loaded-mode test procedure.

(c) A smog check test-only station shall post conspicuously, in an area frequented by consumers, a notice to the effect that the station is licensed to test vehicles only, and

cannot make any required diagnosis or repairs to a vehicle which has failed a smog check test.

(d) ~~Repairs.~~—A smog check test-only station shall not engage in any automotive repair work.

(e) ~~Referral to Providers of Motor Vehicle Repairs.~~—No smog check test-only station may refer a vehicle owner to a particular automotive repair dealer or provider of motor vehicle repair services for emissions-related repairs smog check repair services. The test-only station shall make available to each customer a list prepared by the bureau of all smog check stations in that region licensed to make repairs of vehicular emission control systems, which shall include licensed stations certified under the Gold Shield program. Stations and technicians are prohibited from altering or revising the list supplied by the bureau. For the purpose of this subsection, the term “make available” means to grant access to.

(f) A smog check test-only station shall not have ownership in, corporate interest in, nor any financial interest in a smog check test-and-repair station within a geographical radius of 50 statute miles of the test-only station.

NOTE: Authority cited: Sections 44002 and 44013, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44012, 44013, 44014.5 and 44015, Health and Safety Code.

3. Section 3340.16.5 of Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations is amended to read as follows:

§3340.16.5. Test-and-Repair Station Requirements.

(a) ~~Basic Area.~~—A smog check test-and-repair station operating in a basic area shall have the equipment and materials specified by, and conform to the requirements of, subsection (a) of section 3340.16(a) of this article and, in addition, shall have engine diagnostic equipment and repair tools that are capable of diagnosing and repairing engine ignition systems, fuel systems, emission control systems, computer engine control systems, and other related components for each vehicle type that the station diagnoses and repairs. The equipment or repair tools may be separate units, or part of a multi-functional unit. At a minimum, the station shall have the following materials, tools, and equipment:

(1) ~~An~~ Ignition analyzer or ignition oscilloscope capable of displaying ignition system operation of vehicles subject to the smog check program. At a minimum, the device shall display:

(A) Primary ignition system voltage and coil oscillations; and

(B) Firing voltage and spark duration of the secondary ignition in either analog or digital form. For distributor-equipped systems, the device shall be capable of displaying this information for all cylinders at the same time.

(2) ~~A~~ Compression tester.

(3) ~~A~~ Tachometer/dwell meter.

(4) ~~A~~ Fuel pressure gauge capable of measuring the higher pressures of fuel-injected vehicles.

(5) ~~A~~ Propane enrichment kit.

(6) ~~An~~ Ammeter capable of measuring amps and milliamps.

(7) ~~A~~ High impedance digital volt/ohmmeter.

(8) Hand tools necessary to adjust, maintain, and repair vehicular ignition, fuel delivery, and emission control systems.

(9) Diagnostic and repair information for all vehicles being tested and repaired. Such information may be in printed or electronic form and may be nationally distributed and periodically updated references that contain repair and emission procedures. These references must be up to date and include current model year supplements for automobile emission control systems. Electronic references shall be provided in printed form upon request from the bureau.

(10) The most currently available bureau test and repair manuals.

(11) Automotive computer diagnostic and repair manuals.

(12) Electronic component location manuals.

(13) A device capable of retrieving trouble codes from vehicles with on-board computers, along with instructions on how to extract codes, and definitions of codes. This device shall have the ability to display and store data streams from the on-board computer systems of vehicles. The device shall be On-Board Diagnostic II compliant, and shall have the Enhanced E/E Diagnostic Test Modes capabilities as noted in the Society of Automotive Engineers' document number J2190 dated June 1993. Diagnostic

data modules required to operate the device shall be kept updated to the current available calendar year.

(b) ~~Enhanced Area.~~ A smog check test-and-repair station operating in an enhanced area shall have all of the equipment and materials specified by, and conform to the requirements of subsection (a) above, and:

(1) ~~The equipment and materials specified by, and conform to the requirements of, subsection (a) of this section, a~~ An emissions inspection system in accordance with the bureau's BAR-97 Emissions Inspection System Specifications referenced as provided in subsection (b) of section 3340.17(b) of this article.

(2) An electronic device capable of graphically displaying any electrical or electronic signal used by an automotive computer system. The device shall have the capability of displaying the electrical or electronic signal using a voltage and time scale that is adjustable. The device shall have the capability of capturing and displaying a high frequency abnormal signal, regardless of time per division setting, or screen refresh rate. This device may be a separate unit, or be part of a multifunctional unit that also serves to fulfill one or more of the requirements of subsection (a) above.

(3) A tire pressure gauge capable of accurately measuring tire pressure at the specification for the vehicles being tested and inspected using the loaded mode test procedure.

(c) A smog check test-and-repair station ~~which~~ that has accepted a vehicle for inspection shall disclose both orally and in writing on the written estimate provided pursuant to Section 9884.9 of the Business and Professions Code, before the initial inspection of the vehicle, if the vehicle is potentially affected by any of the following conditions:

(1) The station does not have adequate equipment, personnel, tools or reference materials to repair the vehicle, should the vehicle fail its inspection; or

(2) The station, as a matter of policy, does not repair certain types, makes or models of vehicles; or

(3) The station, as a matter of policy, does not repair certain types of vehicle inspection failures.

~~Such written disclosure shall be made on the written estimate provided pursuant to section 9884.9 of the Business and Professions Code.~~

(d) Smog check test-and-repair stations shall not refer a vehicle owner to a particular test-only station for the testing and certification of a vehicle that has been directed to a test-only station for its biennial smog check pursuant to Sections 44010.5 and 44014.7 of the Health and Safety Code. Test-and-repair stations shall make available to each customer that presents a test-only directed vehicle for initial testing a list prepared by the bureau of those smog check test-only stations in that region licensed to perform initial tests of, and to certify test-only directed vehicles. Stations and technicians are prohibited from altering or revising the list supplied by the bureau. For the purpose of this subsection, the term “make available” means to grant access to.

(e) A smog check test-and-repair station shall not have ownership in, corporate interest in, nor any financial interest in a smog check test-only station within a geographical radius of 50 statute miles of the test-and-repair station.

NOTE: Authority cited: Section 44002, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44012, 44030(b) and 44036(b), Health and Safety Code.

4. Section 3340.16.6 of Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations is repealed as follows:

~~§3340.16.6. Requirement for Telephone Line.~~

~~A test analyzer system or emissions inspection system prescribed by subdivision (b) of section 44036 of the Health and Safety Code and used in the smog check program must be connected via modem to a standard, single party business telephone line, in order to transmit required program information. The line must not be used for any other purpose, nor may it be connected to more than one test analyzer system or emissions inspection system, nor may it have call waiting or any other special feature that would interfere with the modem's operation. Smog Check stations shall keep this telephone connected to the appropriate test analyzer system or emissions inspection system at all times.~~

~~NOTE: Authority cited: Sections 44002 and 44036(b), Health and Safety Code. Reference: Sections 44012 and 44036(b), Health and Safety Code.~~

5. Section 3340.17 of Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations is amended to read as follows:

§ 3340.17. Test Equipment, Electronic Transmission, Maintenance and Calibration Requirements.

~~(a)(1) Until January 1, 2004, each smog check station operating in a basic area shall have a BAR-certified test analyzer system that meets the specifications contained in the BAR-90 Test Analyzer System Specifications dated April 1996, hereby incorporated by reference. Vehicle data emission test results shall be transmitted to the department's centralized data base in accordance with the procedures contained in these specifications, which include the form, manner and frequency of data transmittals. The test analyzer system shall be maintained and calibrated in accordance with the bureau's BAR-90 Test Analyzer System Specifications referenced in this subsection, and in accordance with the manufacturer's specifications. The test analyzer system shall have the most current software and hardware updates required by the bureau.~~

~~(2) On or after January 1, 2004, e~~Each smog check station operating in other than an enhanced program area shall have a BAR certified emissions inspection system, as specified in subsection (b), except that the hardware and the software necessary to conduct dynamometer based, loaded-mode emissions inspections shall not be required. Vehicle data emission test results shall be transmitted to the department's centralized data base in accordance with the procedures contained in the specifications referenced in subsection (b), which include the form, manner and frequency of data transmittals. The emissions inspection system shall be maintained and calibrated in accordance with the specifications referenced in subsection (b), and in accordance with the manufacturer's specifications. The emissions inspection system shall have the most current software and hardware updates required by the bureau.

(b) Each smog check station operating in an enhanced area shall have a BAR-certified emissions inspection system that meets the specifications contained in the BAR-97 Emissions Inspection System Specifications dated May 1996, as revised through December 2001, hereby incorporated by reference. Vehicle data emission test results shall be transmitted to the department's centralized data base in accordance with the procedures contained in these specifications, which include the form, manner and frequency of data transmittals. The emissions inspection system shall be maintained and calibrated in accordance with the bureau's BAR-97 Emissions Inspection System

Specifications referenced in this subsection, and in accordance with the manufacturer's specifications. The emissions inspection system shall have the most current software and hardware updates required by the bureau.

(c) All other diagnostic and repair equipment shall be maintained in good working condition. All equipment requiring calibration or adjustment shall be calibrated or adjusted in accordance with the instructions of the manufacturer, as approved by the bureau.

(d) ~~An test analyzer system or~~ emissions inspection system shall only be used within a building and shall not be used in an environment that would subject the ~~test analyzer system or~~ emissions inspection system, to excessive heat, cold, dust, or moisture. The specifications for environmental conditions are referenced in the bureau's "BAR Exhaust Gas Analyzer Specifications" dated 1980, as herein incorporated by reference, and in the ~~BAR-90 Test Analyzer System Specifications and~~ BAR-97 Emissions Inspection System Specifications referenced in subsections ~~(a) and~~ (b) of this section.

(e) ~~Test analyzer systems and e~~Emissions inspection systems shall be calibrated only with BAR-approved gases that are certified in accordance section 3340.18 of this ~~chapter~~ article.

(f) Only bureau-authorized representatives or authorized manufacturer representatives shall have access to the ~~test analyzer system or~~ emissions inspection system for service or inspection.

(g) ~~Test analyzer systems and e~~Emissions inspection systems that the bureau finds do not comply with the hardware and software requirements and specifications established in this article will be disconnected from the bureau's centralized computer database and network, and thereby prohibited from being used to perform smog check inspections, and to transmit certificates of compliance to the Department of Motor Vehicles, until they are brought into compliance.

(h) All emissions inspection systems prescribed by subdivision (b) of section 44036 of the Health and Safety Code and used in the smog check program must be connected via modem to a standard, single-party business telephone line, or in the alternative to a high-speed or broadband connection, in order to transmit required program information. The telephone line, or high-speed or broadband connection, must not be used for any

other purpose, nor may it be connected to more than one emissions inspection system, nor may it have call waiting or any other special feature that would interfere with the modem's operation or the operation of the high-speed or broadband connection. Smog Check stations shall keep this telephone line, or high-speed or broadband connection, connected to the emissions inspection system at all times.

NOTE: Authority cited: Sections 44002, 44036 and 44037.1, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44012, 44036 and 44037.1, Health and Safety Code.

6. Section 3340.41 of Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations is amended to read as follows:

§3340.41. Inspection, Test, and Repair Requirements.

(a) A licensed station shall give a copy of the test report printed from the ~~test analyzer system or~~ emissions inspection system to the customer. The report shall be attached to the customer's invoice.

(b) No person shall enter into the ~~test analyzer system or~~ emissions inspection system any access or qualification number other than as authorized by the bureau, nor in any way tamper with the ~~test analyzer system or~~ emissions inspection system.

(c) No person shall enter into the ~~test analyzer system or~~ emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the ~~test analyzer system or~~ emissions inspection system any false information about the vehicle being tested.

(d) The specifications and procedures required by Section 44016 of the Health and Safety Code shall be the vehicle manufacturer's recommended procedures for emission problem diagnosis and repair or the emission diagnosis and repair procedures found in industry-standard reference manuals and periodicals published by nationally recognized repair information providers. Smog check stations and smog check technicians shall, at a minimum, follow the applicable specifications and procedures when diagnosing defects or performing repairs for vehicles that fail a smog check test.

(e) ~~Smog check test only stations shall not refer a vehicle owner to a particular automotive repair dealer or provider of smog check repair services. Test only stations shall make available to each customer a list prepared by the bureau of those smog check~~

~~stations in that region licensed to make repairs of vehicular emission control systems, which shall include licensed stations certified under the Gold Shield Program. Stations are prohibited from altering or revising the list supplied by the bureau. A smog check station shall not perform an initial test, except for an official pre-test on, or issue a certificate of compliance to any vehicle that has been directed to a test-only station for its biennial smog check pursuant to Sections 44010.5 or 44014.7 of the Health and Safety Code, unless the station is licensed as a test-only station pursuant to subdivision (b) of Section 44014 of the Health and Safety Code. The reinspection and certification of a test-only directed vehicle that has failed an initial test at a test-only station and has undergone subsequent repairs to correct the cause of the failure, may be performed by a test-only station, or by a test-and-repair station that performs those repairs, and that is also certified as a Gold Shield station pursuant to Section 44014.2 of the Health and Safety Code and Article 10 (commencing with section 3392.1) of this chapter.~~

NOTE: Authority cited: Sections 44002, 44016 and 44030, Health and Safety Code; and Section 9882, Business and Profession Code. Reference: Sections 44010.5, 44012, 44014, 44014.2, 44014.7, 44016, 44030, 44036(a) and (b), 44050 and 44051.5, Health and Safety Code.